

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

**UMBRA, LLC,**

**Plaintiff,**

**NOTICE OF DISMISSAL  
WITHOUT PREJUDICE**

**vs.**

**Case No.: 12-CV-00966-RJA**

**JOBAR INTERNATIONAL, INC.,**

**Defendant.**

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WHEREAS, The parties have reached a settlement, the terms of which are set forth in a Confidential Settlement Agreement and Release dated as of November 30, 2012 (“CSA”); and

WHEREAS, the CSA permits counsel for Plaintiff to file a Stipulation of Dismissal on behalf of counsel for Plaintiff and Counsel for Defendant; and

WHEREAS, Defendant’s counsel did not file a Notice of Appearance in this action, but did join in a Stipulation filed with the Court (Dkt.#8); and

WHEREAS, Defendant did not file an answer or motion for summary judgment in response to the complaint; and

WHEREAS, under Rule 41(a)(1) of the Fed.R.Civ.P., plaintiff can file a Notice for Dismissal without a court order in these circumstances; and

WHEREAS, the CSA provides that the Stipulation of Dismissal shall incorporate the CSA; and

WHEREAS, the CSA provides that it shall be incorporated (but not merged) into the Stipulation of Dismissal; and

WHEREAS, the CSA provides that the Court shall retain jurisdiction over this action to enforce the terms of the CSA.

NOW THEREFORE, Plaintiff hereby gives notice of its voluntary dismissal of this action pursuant to Rule 41(a)(1) of the Fed.R.Civ.P., based on the foregoing recitals, which are incorporated by this reference, and this action is dismissed on such terms, without costs or fees to either party.

Dated: June 14, 2013

/s/Randolph C. Oppenheimer

Randolph C. Oppenheimer, Esq.

**DAMON MOREY LLP**

Avant Building - Suite 1200

200 Delaware Avenue

Buffalo, New York 14202

Telephone: (716) 856-5500

[roppenheimer@damonmorey.com](mailto:roppenheimer@damonmorey.com)

*Lead Counsel for Plaintiff*

SIMPSON & SIMPSON , PLLC

Robert C. Atkinson, Esq.

5555 Main Street

Williamsville, New York 14221

Telephone: (716) 626.1564

[ratkinson@idealawyers.com](mailto:ratkinson@idealawyers.com)

*Co-Counsel for Plaintiff*

**CERTIFICATE AND AFFIRMATION OF SERVICE**

I, Randolph C. Oppenheimer, Esq., hereby certify and affirm that on June 14, 2013, I electronically filed the foregoing Notice for Dismissal with the Clerk of the United States District Court for the Western District of New York using its CM/ECF system which would then electronically notify the following CM/ECF participant in this case:

Robert C. Atkinson, Esq.  
[ratkinson@idealawyers.com](mailto:ratkinson@idealawyers.com)

I further certify and affirm that on June 14, 2013, I mailed a true copy of the foregoing Notice for Dismissal to Defendant's counsel, via postage-paid first class mail, addressed to the address designated by him for the receipt of service by mail, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York, addressed as follows:

Brian K. Brookey, Esq.  
CHRISTIE, PARKER & HALE, LLP  
655 North Central Avenue, Suite 2300  
Glendale, CA 91203  
[brian.brookey@cph.com](mailto:brian.brookey@cph.com)

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/s/Randolph C. Oppenheimer